

**Statement of**

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**HOUSE COMMITTEE ON AGRICULTURE  
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Mr. Chairman, I appreciate this opportunity to testify before the Committee on the status of agricultural trade negotiations. I will focus my comments on the affect of trade negotiations on international food assistance.

I am Government Relations Director at the firm Cadwalader, Wickersham & Taft and also serve as Executive Director of the Coalition for Food Aid. The members of the Coalition are private, non-profit organizations and cooperatives that design and implement food aid and other programs in developing countries to improve the quality of life and to promote food security and economic growth.<sup>1</sup> Attached is a letter sent by the Coalition last year to the World Trade Organization (WTO) after the first text on agriculture modalities for the Doha Development Agenda (DDA) was released.

Although the purpose of food aid is humanitarian and development assistance, it is the subject of agricultural trade negotiations because it involves agricultural commodity exports. Food aid is not considered an export subsidy and is permitted without limitation under Article 10.4 of the Uruguay Round (UR) Agreement on Agriculture, which strikes a fair balance between the legitimate food aid needs of poor and transitional countries and non-interference with commercial trade. Under Article 10.4, food aid is considered legitimate if it meets the requirements of the Food Aid Convention (FAC), does not create a disincentive to agricultural development in the recipient country, and does not interfere with commercial sales to the recipient country. The FAC is a multilateral agreement that seeks to assure minimum commitments of food aid by donor countries each year and supports the use of food aid for both emergency and chronic (e.g. non-emergency) needs. Agreements are permitted between a donor country and a foreign government, inter-governmental agency or humanitarian and development organization.

Proposals currently under consideration at the World Trade Organization (WTO) DDA trade negotiations threaten the continuation of non-emergency food assistance programs that promote food

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<sup>1</sup>The members of the Coalition for Food Aid are: ACDI/VOCA, Adventist Development & Relief Agency International, Africare, American Red Cross, CARE, Catholic Relief Services, Counterpart, Food for the Hungry International, International Orthodox Christian Charities, International Relief & Development, Land O'Lakes, Mercy Corps, OIC International, Project Concern, Save the Children, and World Vision.

security and economic growth in low-income, food-deficit countries. It is critical that the Doha Round negotiators protect against any deviation from the present text of Article 10.4 that could place existing food assistance programs in jeopardy and result in a loss of flexibility in providing aid to poor and transitional countries.

In arguing for restrictions on food aid programs, several agricultural exporting nations have overstated the effect of these programs on commercial trade. Although the donor base and types of commodities provided have expanded over the years, minimum donor commitments under the FAC have actually fallen from 7.52 million metric tons per year in 1986 to 4.895 million metric tons per year (plus a \$130 million cash contribution) in 1999. This is well short of the original FAC goal for minimum donor commitments of 10 million metric tons per year. U.S. non-emergency programs currently provide 2 million metric tons per year, which is much less than the chronic shortfall of 15 million metric tons of food in the sixty poorest, food deficit countries.

To assure that adequate amounts of food aid are available on a regular basis and that effective programs can be developed to promote food security, the following actions are recommended:

- Both governmental and non-governmental bilateral agreements must continue to be allowed. Non-emergency bilateral programs are critical for reaching a diversity of underserved populations, as a tool for long-term improvements in food security and for building local capacity.
- To provide a predictable and steady amount of assistance to address chronic needs, donor countries should increase their annual food aid commitments, aiming for the original FAC minimum of 10 million metric tons. In regards to U.S. programs, no further cuts should be made in the P.L. 480 Title I program, the 400,000 metric ton minimum for the Food for Progress Program should be met, adequate funding should be provided for the 2,500,000 metric ton requirement for P.L. 480 Title II programs, and the U.S. Agency for International Development (USAID) should meet to the 1,875,000 metric ton minimum level for non-emergency programs.
- Countries should adhere to the notification and consultation requirements of the UN Food and Agricultural Organization (FAO) Consultative Subcommittee on Surplus Disposal (CSSD). This, rather than the WTO, is the appropriate forum for considering issues related to non-interference with commercial sales.

### **Continued Need for Food Aid**

This year marks the Fiftieth Anniversary of the Food for Peace program. With bipartisan and broad public support, Food for Peace has provided 72 million metric tons of food aid to alleviate hunger and to promote growth and security in the developing world. It has helped 750 million people – more than any other U.S. foreign assistance program. Former recipients include Korea, Hong Kong, Taiwan, Indonesia, Philippines, Thailand, Malaysia, Singapore, Mexico, Turkey, Algeria, Egypt, Greece, Brazil, and Poland – all of which are important trade partners, today.

While the United States can be proud of this record, there are challenges ahead. Sadly, today, over 800 million people do not get enough to eat. Chronic needs are growing due to the prevalence of HIV/AIDS and setbacks caused by natural disasters, civil strife and economic downturns. If non-emergency food aid programs are reduced, millions of people will suffer.

### **Status of Food Aid in the Doha Round**

The United States' original position on food aid in the Doha Round, as stated in its June 2000 submission, was to preserve Article 10.4 as is. Since then, the U.S. position has changed. The export competition section of the US-EU Agriculture Framework (presented on August 13, 2003) states: "Disciplines shall be agreed in order to prevent commercial displacement through food aid operations." This language was included in September 13, 2003 Derbez Text, which states under Annex A, Section 3.5, "Additional disciplines shall be agreed in order to prevent commercial displacement thru food aid operations." The Derbez Text is currently being used in DDA agricultural meetings as the members develop the framework for further negotiations.

The meaning of "additional disciplines" is open to interpretation. The WTO Secretariat's April 20, 2004 update on the negotiations provided the following explanation: "The Derbez draft proposes that an end date for phasing out all forms of export subsidies (i.e. including subsidized export credit and some forms of food aid) should be negotiated." [WTO Agriculture Negotiations: *The Issues, And Where We Are Now: April 20, 2004*. WTO Secretariat, page 18.]

This reference to phasing out "some forms of food aid" is worrisome. It is not clear what this would include. Last year, Attachment 6 of the Revised Draft Modalities on Agriculture (March 18, 2003, "Harbinson Draft") proposed eliminating government-to-government bilateral food aid agreements for non-emergency programs and allowing other food aid programs to be challenged by WTO members and subject to WTO dispute settlement procedures. However, the EU wanted to go further, only allowing cash to be used for non-emergency food aid, which would effectively eliminate the Title I, Title II non-emergency, McGovern-Dole and Food for Progress programs.

The European Commission's May 9, 2004 open letter to WTO colleagues states that in order for the EU to move forward on export subsidy negotiations, there must be "full parallelism on all forms of export competition, including export credits, food aid and STEs." On May 13, 2004, U.S. Trade Representative Zoellick commented, "If the European Union can move on this critical point, as it seems close to doing, the United States will eliminate the subsidy element of export credits and discipline food aid to avoid commercial displacement, while still permitting countries to meet vital humanitarian needs." Although it is understandable that Ambassador Zoellick welcomes an opening to proceed with the negotiations, this implied comparison between food aid and export subsidies is disturbing.

Export subsidies lower the cost of commercial sales on the international market and the purchaser pays the seller. Food aid is a donation of commodity for direct distribution to specific populations; the sale of a donated commodity and the retention of the currencies in the recipient country to be used on specific projects; or a long-term loan at concessional rates, allowing the commodity to be sold on the market and the currencies used in the recipient country for many years before repayment is due. Food aid

targets countries and populations that lack access to adequate amounts of food to lead healthy, productive lives. If the tenets of the FAC are followed, as they are for U.S. food assistance, then food aid is an effective tool for emergency relief, alleviating chronic hunger, and addressing transitional or structural food shortages in net food-importing developing countries (NFIDCs).

It seems that EU concerns views about food aid reflect (1) a lack of information about current U.S. food aid programs; (2) memories of several large U.S. food aid programs; (3) a general distrust of the United States' assertions that its food aid programs are not a form of export subsidy; and (4) positioning by the EU for negotiations on the elimination of export subsidies.

Many developing countries have a very different view of food aid and have expressed their views through a variety of submissions to the WTO. However, it is necessary to differentiate between developing countries that are agricultural exporters, such as Argentina and Brazil, and the 49 least developed countries (LDCs), such as Bangladesh and Uganda, and NFIDCs such as Honduras and Guatemala. Countries in the latter two categories support continued bilateral food aid for both emergencies and chronic needs. Of course, they do not want commodities to be "dumped" on their markets or through distribution programs because it could harm their fragile agricultural economies. However, they recognize that food aid programs can be and are being used to promote food security and that too much emphasis is being placed in the WTO on potential negative impacts. As an example, the "Dakar Declaration of the Third LDC Trade Ministers' Meeting" (May 5, 2004) proposes that Derbez Text should include the following positive statement: "Food aid provided by Members to meet emergency situations, and humanitarian and development objectives, and to address the chronic food deficit situation in LDCs shall be allowed."

### **Rationale for Limiting Food Aid is Flawed**

The Harbinson Draft (Attachment 6, *Revised Draft of the Modalities on Agriculture*, March 18, 2003) states that the intent of creating new food aid disciplines in the DDA is to ensure that food aid is not used for surplus disposal or to achieve advantages in the commercial market. Currently, Article 10.4 relies on the UN Food and Agricultural Organization (FAO) Consultative Subcommittee on Surplus Disposal (CSSD) to provide this oversight because it has been used for that purpose for decades. If there are concerns that countries are not meeting the notification and consultation requirements of the CSSD, then these issues should be discussed at the FAO and appropriate measures should be taken to address problems.

Papers submitted by WTO members for the DDA and discussions with several of the negotiators from different countries indicate that U.S. food aid programs are not well understood. In addition, the EU approaches food aid very differently than the United States. The EU has concluded that food aid can not be used effectively to promote long-term food security and is only useful for certain emergencies. Therefore, the EU claims that non-emergency food aid is surplus disposal or circumvention of export subsidy limitations. With all of the political posturing over export subsidies, it is difficult to separate fact from fiction.

First, the potential impact of food aid on commercial trade is overstated. The levels of food aid are much less than what is needed to meet chronic needs and emergencies. Total US food aid was only 4.6 million metric tons (MMT) in FY 2003, of which 57% was for emergency use, leaving only 2.0 MMT for countries and people who suffer from chronic food shortages or hunger. The USDA Economic Research Service reports that chronic food shortages in the 60 most food insecure countries equals about 15 MMT/year. Thus, the United States is only providing 13% of the amount needed to address chronic food shortages, and other donors combined provide even less.

Second, claims are made that large-scale food aid programs are interfering with local agricultural production and commercial imports. Indeed, this is possible, but large-scale programs are rare. Large distributions occur during emergencies when needs assessments indicate that large quantities are needed to prevent hunger and starvation. Recent examples are the war in Afghanistan, the southern African drought in 2002, the Ethiopian and Eritrean drought in 2002 and 2003, and the current crisis in the Sudan.

Since 1993, there have been very few large non-emergency programs. One program that caused a great deal of controversy both here and abroad was the 1999 Section 416 program approved for Russia. Because of the negative feedback, it was not repeated. The memory of the Russia program seems to haunt food aid negotiations, even though such programs have been discontinued.

Third, some countries believe that since donations tend to be greater in years when prices are low, food aid is linked to surplus disposal. Developing countries and the FAC point out that a predictable and steady amount of food aid should be made available and that donors should endeavor to provide more food assistance when commodity prices are low. In this way, food aid is more clearly linked to addressing food insecurity in vulnerable countries, rather than building dependency. It is ironic that U.S. food aid programs are being faulted for not meeting this intent, because U.S. laws explicitly call for linking food aid to food security. However, budget constraints make it difficult to meet this objective.

Food aid funding is largely dependent on annual appropriations and the budget is limited. Within a limited budget, when prices are low, more commodities can be purchased; when prices are high, fewer commodities can be purchased. For example, Title I allows government-to-government agreements that are very helpful to NFIDCs, but its budget has been drastically cut over the past decade. High commodity and freight rates this year will cause the amount provided under Title I to fall even further.

Although funding for Title II has increased over the past several years, the amount provided for non-emergency programs has actually decreased. The Title II statute includes a requirement that at least 2,500,000 metric tons of commodities be made available each fiscal year, of which 1,875,000 metric tons is reserved for nonemergency programs. The U.S. Agency for International Development is not seeking proposals to meet the 1,875,000 metric ton requirement, even though additional food aid is needed for nonemergency programs that help food insecure communities, such as those that are vulnerable to disasters and where HIV/AIDS is prevalent. The Office of Management and Budget has decided that the current Title II budget must cover all emergency food aid needs, rather than depend on the Bill Emerson Humanitarian Trust as a contingency reserve for emergencies. Therefore, USAID sets

aside extra Title II funds for emergencies and is only providing 900,000 to 1,000,000 metric tons for nonemergency programs.

Fourth, one of the papers submitted during the Doha Round negotiations assumes that food aid donations provide special advantages for commercial companies to sell additional products in the recipient country. U.S. food aid program rules and procedures protect against such “tied” commercial benefits through the use of an open tender for commodities that is separate from the tender for freight. No one company is guaranteed to win the commodity tender and the commercial company is kept arm’s length from the receivers. Thus, it is not possible for the commercial company to link a food aid donation or sale to a future commercial sale.

In an idealized international free market, any food aid, whether a grant or concessional loan, could be considered a distortion. However, the actual circumstances must be considered, including the economic and humanitarian needs of the country and the degree to which the market would be affected. There is a need for balance in addressing this issue as more than 800 million people lack sufficient diets to lead healthy lives.

## **Background**

### ***Article 10.4: Uruguay Round Food Aid Provisions:***

Under Article 10.4 of the Agreement on Agriculture, a country’s food aid programs are not subject to limitation under the WTO if they meet the following criteria:

1. The provision of food aid is not tied to commercial sales.
2. The provision of food aid does not create disincentives to recipient country production or marketing, following rules set by the Food Aid Convention (FAC). Established in 1967 and most recently revised in 1999, the FAC defines food aid, allowing donations and concessional loans, distribution and sales (“monetization”), and donations through governments, intergovernmental agencies or humanitarian and development organizations. Donor countries that are parties to the FAC pledge to provide minimum amounts of food aid each year and report on compliance with FAC rules governing the use of food aid.
3. The commodities provided do not displace commercial imports in the recipient country, as determined by the UN Food and Agricultural Organization (FAO) Consultative Subcommittee on Surplus Disposal (CSSD). Prior to implementing a food aid program, a donor country is required to notify the CSSD of the tonnage and type of commodity that will be provided and to allow prior consultation with other exporters. The “usual marketing requirements (UMR)” are established – the amount of the commodity that the recipient country must continue to import commercially during the same year it receives the food aid.

### ***Recognition of Least-Developed and Net Food-Importing Developing Countries***

At the close of the UR in Marrakech in 1994, the Ministers recognized that with fewer subsidized agricultural exports, developing countries that are net importers of agricultural commodities may be subject to higher prices for some products. Since this could have a negative impact on these food insecure and poor countries, the Ministers issued a decision on “Least-Developed and Net Food-Importing Developing Countries” stating that the legitimate food needs of these countries should be monitored by the WTO Committee on Agriculture and certain measures should be taken to provide appropriate aid to such countries. The Ministers agreed to the following measures --

1. To review the food aid levels established under the Food Aid Convention (FAC) and (a) to initiate negotiations to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries, and (b) to adopt guidelines to increase the proportion of food aid provided in grant form or through appropriate concessional terms in line with the FAC.
2. To give “full consideration” in their aid programs to requests for technical and financial assistance to improve agricultural productivity and infrastructure in these countries.
3. To ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favor of these countries.
4. To consult with the IMF and WB about short-term difficulties some countries may have in financing normal levels of commercial imports and whether these countries may be eligible to draw on the resources of these institutions.

### ***Harbinson Draft***

Attachment 6 of the Harbinson Draft rewrites Article 10.4 of the Agreement on Agriculture. The most prominent changes in food aid disciplines are --

1. Section 4(b)(iii), grant only. This provision requires all food aid on grant terms, even though the FAC permits concessional loans. This would result in the elimination of the P.L. 480 Title I program.
2. Section 4(b)(ii), nonemergency programs. This provision only allows cash for nonemergency food aid programs, except that in-kind food aid could be provided through donor agreements with UN specialized food agencies and humanitarian organizations and international organizations. Thus, government-to-government “in-kind” food aid agreements would not be permitted, even though they are allowed under the FAC. Some exporting countries, particularly the EU, are advocating further restrictions, such as eliminating all bilateral in-kind programs, having a UN agency sanction all food aid programs or establishing criteria regarding where and how food aid can be provided. The ban on government-to-government agreements and any of the additional restrictions proposed

above will eliminate targeted food security programs that are assisting millions of people. Thus, both governmental and nongovernmental bilateral agreements should be permitted, as they are under the FAC. Restrictions on the types of food aid programs should not be decided as part of the Doha Round.

3. Binding WTO commitment. These new food aid disciplines would be binding commitments in the WTO and would be subject to dispute settlement proceedings and related penalties. Because all donor countries are members of the WTO, the restrictions in the Doha Round would apply to the provision of food aid by a donor country to any country, regardless of the recipient's WTO membership status. Thus, another exporting country could challenge the United States on the shipment of wheat, corn, soy, dairy, legumes or any other commodity under a food aid program and initiate a dispute under WTO rules.

Mr. Chairman, thank you for this opportunity to testify. I would be pleased to answer any questions you may have.